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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/026,501	12/19/2001	Joseph S. Wycech	M 6385A	9344

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EXAMINER

VO, HAI

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 06/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/026,501	Applicant(s) WYCECH, JOSEPH S.	
	Examiner Hai Vo	Art Unit 1771	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 April 2006.
 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18, 30-36, 52-54 and 56-58 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) ☒ Claim(s) 30-34 is/are allowed.
 6) ☒ Claim(s) 1-18, 35, 36, 52-54 and 56-58 is/are rejected.
 7) ☐ Claim(s) _____ is/are objected to.
 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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1. Claims 30-34 are allowed.
2. The art rejections over Steward et al (US 4,211,590) have been maintained
3. The art rejections based on Isola (US 3,953,067) have been withdrawn in view of the present amendment. Isola discloses a vehicle headliner comprising a multilayered laminate that includes a rigid foam substrate 190, an intermediate insulating material 192 and a resilient foam like covering material 194 as shown in figure 7 (column 7, lines 15-20, column 10, lines 60-62, column 15, lines 1-5). The rigid foam substrate does not read on Applicant's non-foamable carrier material.
4. The art rejections over Nomura (US 4,128,638) are maintained.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. Claims 1-18, 35, 36, 52-54, and 57 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Basis for "carrier layer being made of a non-foamable material" is not fully supported by the present specification. The non-foamable material could

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include a ceramic, wood or inorganic material and therefore, the claims contain subject matter which does not fall within the scope of the present invention.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1, 3, 7, 16-18, 52 and 53 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Steward et al (US 4,211,590) substantially as set forth in the 02/24/2006 Office Action. The art rejections over Steward have been maintained for the following reasons. Applicant argues that since the thermoplastic film layers are made of the same polymer as the core layer, both of the film layers would become foamed when they are subjected to heating. The examiner respectfully disagrees. The arguments are not found persuasive for patentability. Nothing in Steward discloses or suggests that the film layers are comprised of a blowing

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agent. The film layers will not be necessarily foamed when subjected to heating in the absence of a blowing agent. Further, the claims appear not to be limited as Applicant intended. The "non-foamable material" does not clearly indicate that the carrier is a non-foamed material. The two thermoplastic film layers disclosed in Steward could be both non-foamable and foamable materials. The blowing agents could be incorporated into the two thermoplastic film layers to make them foamable. Alternatively, the elimination of the blowing agents could render the films non-foamable as desired. The combination of a non-foamed carrier and a second foamed layer renders the claims unobvious over the prior art.

Accordingly, Steward anticipates or strongly suggests the claimed subject matter.

10. Claims 1, 3-14, 18 and 36 are rejected under 35 U.S.C. 102(b) as being anticipated by Nomura et al (US 4,128,683) substantially as set forth in the 02/24/2006 Office Action.
11. Claims 15-17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nomura et al (US 4,128,683) substantially as set forth in the 02/24/2006 Office Action.
12. Claims 2 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nomura et al (US 4,128,683) as applied to claim 1 above, further in view of Daniel (US 4,234,907) substantially as set forth in the 02/24/2006 Office Action.

The art rejections based on Nomura have been maintained for the following reasons. Applicant argues that nowhere in Nomura disclose or suggest a laminate where the first layer and the second layer are not yet foamed

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and where in the non-foamed condition a pattern of holes extends completely through the laminate. The arguments are not commensurate in scope with the claims because nothing in the claims says that a pattern of holes extends completely through the laminate in the unfoamed condition. Further, Applicant argues that Nomura does not teach or suggest the capability of becoming upon activation either a rigid reinforcement foam or a compliant foam. The examiner respectfully disagrees. Nomura teaches an auto ceiling panel comprising a vinyl chloride sheet 4, a first polyethylene foam 2, a metal lath 1, and a second polyethylene foam 3. The first polyethylene foam and the vinyl chloride sheet are provided with a plurality of small holes through two layers while the second polyethylene foam is provided with a plurality of through holes with a diameter larger than that of the small holes (see figure 1). The different sizes of the holes made within the foam layers make the first foam layer relatively more rigid than the second foam layer. Likewise, the first layer is made from a foamable layer capable upon activation of becoming a rigid reinforcement foam while the second layer is made from a foamable layer capable upon activation of becoming a compliant foam. Accordingly, the art rejections are sustained.

13. Claims 1-4, 16-18, 52-54, and 56-58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wycech (US 5,575,526) in view of Muramatsu (US 5,866,052) substantially as set forth in the 02/24/2006 Office Action. The art rejections have been maintained for the following reasons. Applicant argues that the combined teachings of Wycech and Muramatsu would not achieve the

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claimed invention, namely the three layer laminate which is separate and distinct from the substrate. The examiner respectfully disagrees. The windshield pillar of Wycech as modified by Muramatsu has a layer construction as follows: metal/rigid foam/ soft foam/ rigid foam/ metal. The metal layer reads on Applicant's carrier layer. One of the rigid foam layers corresponds to Applicant's substrate. Accordingly, the combination of two cited references does not exclude the claimed subject matter.

Allowable Subject Matter

14. Claims 30-34 are allowed. The reasons for allowance were stated in the 10/01/2004 Office Action.

Conclusion

15. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hai Vo whose telephone number is (571) 272-1485. The examiner can normally be reached on Monday through Thursday, from 9:00 to 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (571) 272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

HV

Hai Vo

**HAIVO
PRIMARY EXAMINER**